

~~SECRET~~



313 FAIRCHILD DR., MOUNTAIN VIEW, CALIFORNIA 94041 · 415-862-5011 · CABLE FAIRSEMCO MOUNTAIN VIEW CALIFORNIA

REC,D

SEP 17 1964

P. B. H.

September 15, 1964

STATINTL

Accounting Manager
Fairchild Space and Defense Systems
300 Robbins Lane
Syosset, L. I., New York

Dear Phil:

The enclosed vignette (or the D.O.D./contractor correspondence "where the good guys win") is one of the few examples that I know of where misapplication of the ASPR's at a local level has been hurriedly corrected at Headquarters. If you have similar case histories, I would be interested in receiving whatever you might have.

Enjoyed very much dining with you and Larry while you were here, and I shall make a point of calling on you if and when I get back to Syosset.

STATINTL



Contracts Manager

RSL:sm

Enclosures

DOCUMENT NO. _____
NO CHANGE IN CLASS.
 DECLASSIFIED
CLASS. CHANGED TO: TS S C 2011
NEXT REVIEW DATE: _____
AUTH: HA 10-2
DATE: 6/8/81 REVIEWER: 064540

~~SECRET~~

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS UNITED STATES AIR FORCE
WASHINGTON 25, D.C.



REPLY TO: USAF And Gen Br Cfc
ATTN OF: 1069 East Meadow Circle, Palo Alto, California, 94303

SUBJECT: Request for Information

11 Dec 63

TO:

STATINTL

San Carlos, California

1. In order for this office to furnish information on current Government procurement to interested Government contracting officers, it would be appreciated if you office would provide the following information:

a. A list of all Government end use prime and sub fixed-price contracts, which contain the defective pricing clause, completed by your company during the year 1962 and through October of 1963. This list should contain the following information for each prime and sub contract:

- (1) Contract number and/or purchase order
- (2) Name of customer
- (3) End item(s) produced
- (4) Actual cost
- (5) Contract price

2. Your compliance by 30 December 1963 will be appreciated.

Gilbert E. Kufahl
GILBERT E. KUFAHL
Chief

Copies to:
AFWDG-WE-C

STATINTL

This take out
Yes

December 16, 1963

Mr. Gilbert E. Kufahl
Chief
USAF Auditor General Branch Office
1069 East Meadow Circle
Palo Alto, California

Dear Mr. Kufahl:

Your letter, dated December 11, 1963, requested that we furnish you our actual cost records for completed Fixed Price Government Contracts. The apparent purpose of the request is to check the accuracy of our estimates since reference is made to the "Price Reduction for Defective Cost or Pricing Data" clause.

It is our understanding that this clause is not intended to give the Audit Agencies the right to audit actual costs incurred in the performance of the contracts in which it is included. We quote from a statement made to WEMA by Mr. G. C. Bannerman, Deputy Assistant Secretary of Defense (procurement) discussing informally the current DOD thinking on Public Law 87-653 and ASPR: ".....But it should be noted that our audit provision for firm fixed price contracts does not purport to give the Government any right to examine actual costs of performance which are incurred after the price is fixed - rather it is for the purpose of verifying that cost data submitted are accurate, complete and current as of the time of their submission." Further, we have been assured that under no circumstances is this clause to be used as a method of converting all Fixed Price Contracts into "Redeterminable Downward Only" or "CPFF" contracts.

Therefore, consistent with DOD Policy as we understand it, we must refuse to furnish your office with the information requested.

Mr. Gilbert E. Kufahl
December 16, 1963
Page 2

We are forwarding your letter to our Marketing Division for reference to DOD so that we may obtain a clarification of policy.

Very truly yours,

EITEL-McCULLOUGH, INC.

STATINTL

[Redacted]

Controller

STATINTL

cc: [Redacted] Contracting Officer, S.F.
Contract Management District, Palo Alto, Calif.

STATINTL

bcc: [Redacted] (3) ✓

STATINTL

bcc:

December 17, 1963

Department of Defense
Washington 25, D. C.

Attention: ASPR Committee
Col. W. W. Thybony, Chairman

Subject: Audit of Actual vs. Estimated Costs on
Firm Fixed Price Contracts

Gentlemen:

We enclose a copy of a letter recently received from our cognizant Government Audit Agency, requesting a listing of actual costs and contract prices on contracts containing the defective pricing clause.

As you know, industry was worried that hindsight based on actual performance costs compared with original estimates would be utilized to determine price adjustments for defective cost data. Industry was repeatedly assured during discussions pertaining to the implementation of PL 87-643 that audit provisions for firm fixed price contracts does not purport to give the Government any right to request or examine actual costs of performance which are incurred after the price is fixed -- rather it is for the purpose of verifying that cost data submitted are accurate, complete and current as of the time of their submission.

In view of the above, we would appreciate receiving a restatement of policy with respect to the audit of or

Washington 25, D. C.
December 17, 1963
Page Two

use of actual costs of performance on firm fixed price contracts for use in defective pricing determinations.

Your early reply will be appreciated in order not to unduly delay our reply to this letter.

Very truly yours,

Manager
Government Marketing

STATINTL

HMB:db
Enclosure



OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301

INSTALLATIONS AND LOGISTICS

24 DEC 1963



San Carlos, California



STATINTL

STATINTL

Dear

Thank you for your letter of 17 December enclosing a copy of a letter which you had received from the Branch Office of the Air Force Auditor General requesting data on actual costs incurred under fixed price contracts.

You are quite right in your understanding that, in the development of regulations pursuant to Public Law 87-653, the Department agreed with industry representatives that the cost data we would seek for negotiated, non-competitive, firm fixed price contract under this statute would only be that which was available at the time of certification. The Department agreed that it would have no right to audit costs incurred after the date of certification on such contracts. The "Audit and Records" clauses adopted in ASPR for this purpose make it clear that the Department does not have any such right.

As part of these discussions with industry representatives it was agreed that the actual costs of performing fixed price contracts would be of interest to government contracting officers only in connection with the pricing of following contracts for the same item. Where cost data is required for this purpose, it would be requested, furnished and certified, as appropriate, in connection with the pricing of the follow-on contract. Hence, there is no need to request it, and it should not, in fact, be requested, in the administration of the contract under which the costs are incurred.

I am informed by Dr. Borth, the Deputy Assistant Secretary of Defense (Accounting and Audit), that instructions consistent with the foregoing statement will be furnished to the contract audit activities of the Department.

Sincerely,

GRAEME C. BANNERMAN
Deputy Assistant Secretary
of Defense (Procurement)

DEPARTMENT OF THE AIR FORCE
HEADQUARTERS UNITED STATES AIR FORCE
WASHINGTON 25, D. C.

REPLY TO : USAF Aud Gen Br Ofc
ATTN OF : 1069 East Meadow Circle, Palo Alto, California, 94303

SUBJECT : Our Request for Information on Fixed-Price
Contracts and Subcontracts

30 Dec 63

TO : Eitel-McCullough, Inc.



STATINTL

1. Reference is made to our letter of 11 Dec 63 in which we asked for certain information on all Government end-use prime and sub fixed-price contracts completed by your company during the years 1962 and 1963.
2. Subsequent to the date of our letter, we received clarification from higher headquarters on the subject matter. As a result of the clarification, we withdraw our request of 11 Dec 1963 for information on fixed-price prime and subcontracts.

GILBERT E. KUPAHL
Chief

Copies to:
AFAUDG-WE-C